

	DEPARTMENT OF PUBLIC SAFETY	EFFECTIVE DATE: JUN - 8 2011	POLICY NO.: COR.12.03
	CORRECTIONS ADMINISTRATION POLICY AND PROCEDURES	SUPERSEDES (Policy No. & Date): COR.12.03 & 08/03/2010	
	SUBJECT: INMATE GRIEVANCE PROGRAM		Page 1 of 6

1.0 **PURPOSE**

The purpose of the Inmate Grievance Program is to allow an inmate to seek formal review of an issue that implicates a right guaranteed by either State or Federal Constitution or Regulation as to his/her own confinement through a credible, confidential and independent administrative remedy process.

2.0 **REFERENCES**

- .1 The Civil Rights of Institutionalized Persons Act, 42 U.S.C. Sec. 1997. Standards for Inmate Grievance Procedure 28CF.
- .2 Departmental Policy and Procedures (P&P) COR.12.02 Inmate Legal Activities.
- .3 Departmental P&P COR.12.04 Access to Ombudsman.
- .4 United States Department of Justice Federal Bureau of Prisons Program Statement, Administrative Remedy Program 542.10; #P1330.16, dated 12/13/2007.

3.0 **DEFINITIONS**

- .1 Inspections and Investigations Officer (IIO): State of Hawaii Inmate Grievance and Appeals Officer. An independent authority within the Department of Public Safety (PSD) responsible for the development and maintenance of a credible administrative remedy process for inmates.
- .2 Inmate Grievance Specialist (IGS): IIO staff specifically assigned to execute, control, monitor, and report on the Inmate Grievance and Appeals Process at the Branch/Program and facility level of management.
- .3 Inmate Grievance Officer (IGO): Facility Warden's special designee that is specifically trained by the IGS to execute, control, monitor, and report on the inmate grievance and appeals process at the facility.

4.0 **POLICY**

- .1 This program applies to inmates in Correctional facilities operated by the State of Hawaii PSD.

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- .2 No inmate shall be disciplined for invoking his/her right to file a Grievance.

5.0 ADMINISTRATION OF SYSTEM

- .1 The Department Inspections and Investigations Officer (IIO) shall serve as the Director's designee responsible for the planning, coordination, monitoring, evaluation, and reporting on all aspects attendant to the successful implementation of this program.
- .2 Under the direct supervision and general guidance of the IIO, the Inmate Grievance Specialist (IGS) and Inmate Grievance Officer (IGO), are responsible for the implementation, coordination and operation of the Inmate Grievance Program.
- .3 The IGS is responsible for establishing procedures for receiving, recording, reviewing, investigating, assigning and/or responding to Inmate Grievances and/or Appeals submitted by an inmate.
- .4 The IGS/IGO will officially acknowledge receipt of a grievance or an appeal by returning a receipt (goldenrod copy) to the inmate; and create a file for each grievant, which will ultimately include the investigation and response. When an inmate is transferred to a Hawaii facility, the grievance record will be forwarded to the receiving facility.
- .5 Inmates are responsible to use this program in good faith and in an honest and straightforward manner. Any substantiated abuse of this program may result in disciplinary action.
- .6 Grievances are confidential. Access to records and files of complaints/grievances shall be determined by the IIO in compliance with existing regulations and HRS Section 92F.
- .7 The hard copy files of all inmate grievances and appeals will be maintained for a minimum of three (3) years after the final response is issued to the grievant. Grievances accepted for formal processing shall also be entered into the Corrections Information Management System (CIMS), currently Offendertrack.

6.0 ASSISTANCE

- .1 An inmate may obtain assistance from institution staff or another inmate with proper authorization by the Warden in preparing a grievance or an appeal. However, no person may submit a grievance or appeal on another inmate's

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behalf. All grievances/appeals must be penned by the grievant. Obtaining assistance will not be considered a valid reason for exceeding a time limit for submission.

7.0 INFORMAL RESOLUTION

- .1 Except as provided in "Exceptions" below, an inmate shall first present an issue of concern informally to staff by obtaining, filing out and submitting an Informal Resolution, Form PSD 8216 (see attached), and staff shall attempt to informally resolve the issue before an inmate submits an Inmate Grievance. The inmate should submit written documentation to verify an informal resolution attempt was unsuccessful. Each warden shall establish procedures to allow for the informal resolution of inmate complaints.
 - a. **Exceptions.** An informal resolution attempt is not required prior to submission to the Warden when appealing Facility Adjustment Hearing Findings and Dispositions and Program Committee decisions. An informal resolution attempt may be waived in individual cases at the IGS/IGO discretion when the inmate demonstrates an acceptable reason for bypassing informal resolution.

8.0 FILING

- .1 **Submission.** The deadline for submittal of the Inmate Grievance is fourteen (14) calendar days from the date on which the basis of the complaint/grievance occurred.
- .2 **Extension.** Where the inmate demonstrates a valid reason for delay in writing, an extension in filing time may be allowed by the IGS/IGO. In general, valid reason for delay is a situation, which prevented the inmate from submitting the grievance within the established time frame. Valid reasons for delay include the following: an extended period in-transit during which the inmate was separated from documents needed to prepare the grievance or appeal; an extended period of time during which the inmate was physically incapable of preparing a grievance or appeal; an unusually long period taken for informal resolution attempts; and unavailability of grievance forms. The inmate is responsible for submitting verification for any claimed reason for delay.
- .3 **Form.** The inmate shall obtain the Form PSD 8215 (see attached) from staff. The form is to be completed legibly with all required identifying information filled in. The inmate shall clearly state the complaint in the space provided on the form. The inmate should submit one copy of supporting exhibits if the exhibits

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are to be considered in the investigation of the grievance. Exhibits will not be returned with the response. The inmate is encouraged to retain a copy of all exhibits for his or her personal records. The inmate shall date and sign the grievance/appeal and deposit it in the mail receptacle in its entirety.

- a. **Issues.** The inmate may only file one issue on each Inmate Grievance. If there are a reasonable number of closely related issues, they may be submitted on one form. Any Inmate Grievance that is submitted with multiple unrelated issues shall be rejected and returned without response, and the inmate shall be advised to use a separate form for each unrelated issue. The grievance must be individual in nature even though others may be similarly affected.
- b. **Exceptions to the Initial Filing.** If the inmate reasonably believes the issue is sensitive and the inmate's safety or well being would be placed in danger if the grievance became known at the institution, the inmate may submit the grievance directly to the appropriate branch or division administrator in a sealed envelope marked "Confidential".
- c. **Appeals.** An inmate who is not satisfied with the response received may submit an Appeal to the next step within five (5) calendar days from the date of receipt. The inmate shall submit a written statement regarding the basis of the appeal and addressing the response rendered. The first level of review for the Inmate Grievance is the Section Supervisor, the next level for appeal is the Branch/Core Program Administrator and the final review level is the Division Administrator (DA). The decision of the DA shall be final and the ultimate recourse in the Administrative Remedy Process.
- d. **Receipt of Acknowledgment.** The inmate shall acknowledge receipt of responses at all steps. Failure to sign receipt for the response will end the process for that particular issue. When a Receipt of Acknowledgment (ROA) is sent through confidential mail inmate is required to sign, date and return the ROA prior to appeals being accepted. Failure to sign and date the ROA will be the same as "refusing to sign", ending the grievance/appeal on that particular issue.

9.0 RESUBMISSION

- .1 **Rejections.** The IGS/IGO, at any level, may reject and return to the inmate without response a grievance or an appeal that is written by the inmate in a manner that is obscene or abusive, or does not meet any other requirement of this policy.

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- .2 Notice.** When a grievance is rejected, the inmate shall be provided a written notice, signed by the IGS/IGO explaining the reason for the rejection. If the defect on which the rejection is based is correctable, the notice shall inform the inmate of a reasonable time extension within which to correct the defect and resubmit the grievance or appeal.
- a. Submissions for inmate claims, which are too sensitive to be made known at the institution are not to be returned to the inmate. Only a rejection notice will be provided to the inmate. However, other rejected submissions ordinarily will be returned to the inmate with the rejection notice.
 - b. Defects such as failure to sign a submission, failure to submit the required copies of a grievance, appeal or attachments, or failure to enclose the required single copy of lower level submissions are examples of correctable defects. Ordinarily, five (5) calendar days from the date of the notice to the inmate is reasonable for resubmission.
- .3 Appeal of Rejections.** When a grievance or appeal is rejected and the inmate is not given an opportunity to correct the defect and resubmit, the inmate may appeal the rejection. Rejections for non-compliance to policy may not be appealed.

10.0 RESPONSE TIME

- .1** If accepted, a grievance is considered filed on the date it is logged into Offendertrak as received. Once filed, response shall be made within twenty (20) working days. The initial step is determined by the subject of the complaint.
- .2** If the grievance is determined to be of an emergency nature, which threatens the inmate's immediate health or welfare, the response shall be no later than the third calendar day after filing.
- .3** If the time period for response to a grievance is insufficient to make an appropriate decision, the time for response may be extended once by twenty (20) working days. Staff shall respond in writing to all filed grievances. If the inmate does not receive a response within the time allotted for reply, including extensions, the inmate may consider the absence of a response to be a denial at that level. The inmate is then free to proceed to the next step, and no response will be forthcoming to the unanswered step.

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- .4 Inmates have five (5) calendar days to file an appeal to the Branch/Core Program Administrator upon their receipt of a denial from the Section Supervisor. The Branch/Core Program Administrator has twenty (20) working days to respond to the appeal.
- .5 Inmates have five (5) calendar days to file an appeal to the Division Administrator (DA) upon their receipt of a denial from the Branch/Core Program Administrator. The DA has twenty (20) working days to respond to the appeal.
- .6 Appeals to the DA shall be the final and ultimate recourse in the Administrative Remedy Process. Should the twenty (20) working days lapse without a response, including any extension period, the grievance/appeal process will be considered exhausted.

11.0 GRIEVABILITY

Inmates shall not be allowed to file grievances on State and Federal Court decisions; laws and regulations; Parole Board decisions, staff, and/or board members, decisions of the Institutions Division Administrator, Deputy Director, and/or the Director of PSD; Department Policy and Procedures and those activities and services deemed a privilege; and agencies outside the jurisdiction of the Hawaii PSD, Corrections Division.

TORT CLAIMS: If an inmate raises an issue in a grievance or appeal that involves negligence and cannot be resolved through the Administrative Remedy Program, the department will refer the inmate to the administrative tort claim procedure. Monetary compensation is not an option for resolution in the Administrative Remedy Program.

12.0 SCOPE

This policy applies to all Department Correctional facilities.

APPROVAL RECOMMENDED:


Deputy Director for Corrections

 6/2/11
Date

APPROVED:


Director

 6/8/11
Date

**STATE OF HAWAII
Public Safety Department
Informal Resolution**

PRINT ONLY

Inmate's Name: _____ Date: _____

Facility: _____ Housing: _____ SID#: _____

Advisor/Interpreter requested: _____ Yes _____ No Who? _____

This informal resolution must be submitted promptly following the alleged incident. If unresolved you must still meet the deadline to file a formal complaint within fourteen (14) calendar days from the date on which the basis of the complaint occurred. Please refer to Policy and Procedure COR.12.3 Inmate Grievance Program. (Refer to section 7.1a Exceptions and 8.2 Extensions) **If unresolved this form must be attached to the formal Administrative Remedy Form (PSD 8215).**

(Please Print) Briefly describe the problem, date and time of occurrence:

Action requested by inmate: _____

OFFICIAL USE ONLY

Discussed on: Date _____ Time _____ Place _____

Staff proposes to informally resolve your grievance as follows:

Staff's Name Printed: _____ Title: _____

Staff's Signature: _____ Date: _____

If additional space is needed use back of page.

OUTCOME:

Circle One - This Informal resolution (is) (is not) accepted:

Inmate's Signature: _____ Date: _____

Distribution: Original to Inmate to be attached to formal complaint if not resolved.

STATE OF HAWAII - DEPARTMENT OF PUBLIC SAFETY
ADMINISTRATIVE REMEDY FORM

Do Not Write in this Space
OFFICIAL USE ONLY

Date Received: _____

Date Logged: _____

Date Returned: _____

Response Due: _____

(This Control No. Must
Accompany All Appeals)

NAME: _____ SID: _____

HOUSING: _____ CONTROL NO: Step 1 _____
Facility Module/Unit/Block/Cell Step 2 _____

TO: (Step) 1. _____ Section supervisor/Inmate Grievance Specialist
2. _____ Appeal Branch/Core Program Administrator/Inmate Grievance Specialist
3. _____ Appeal Institutions/Core Program Division Administrator/Inmate Grievance Specialist

I attempted to solve this problem through informal discussion with: _____ on _____
Resolution could not be obtained because: _____

Subject cannot be resolved informally because: _____

Attachments included: (must submit signed verification of informal resolution sought) _____

STATEMENT OF COMPLAINT/GRIEVANCE: _____

RESOLUTION SOUGHT: _____

INMATE SIGNATURE _____

DATE _____

RESOLUTION: (Do Not Write In This Space. OFFICIAL USE ONLY) _____

SIGNATURE OF RESPONDENT _____

TITLE _____

DATE _____

Appeals must be filed within five (5) calendar days upon receipt. Signed & dated ROAs must be returned. Step 3 responses are final.

INMATE ACKNOWLEDGED RESPONSE _____

DATE _____

WHITE/File

CANARY/Inmate Answer

PINK/Respondent

GOLD/Inmate Receipt

PSD 8215 (2/2011)